

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

COMSCORE, INC.,

Plaintiff,

v.

**THE NIELSEN COMPANY (US), LLC,
and NETRATINGS, LLC,**

Defendants.

Civil Action No. 1:11-CV-290-LMB/TRJ

**DEFENDANTS THE NIELSEN COMPANY (US), LLC’S
AND NETRATINGS, LLC’S SECOND AMENDED WITNESS LIST**

Pursuant to Federal Rule of Civil Procedure 26(a)(3), Defendants The Nielsen Company (US), LLC and NetRatings (“Nielsen”), by and through their counsel, respectfully submits the following amended witness list for trial. This witness list has been narrowed to reflect the Court’s ruling on various pretrial motions and may be further amended upon the Court’s ruling on summary judgment and other discovery ordered by the Court in connection with Nielsen’s cross-motion for sanctions. All Nielsen fact or expert witnesses may be contacted only through counsel at Jones Day, 51 Louisiana Avenue, NW, Washington DC, 20001.

I. Defendants’ Fact Or Expert Witnesses Expected To Be Called At Trial in Nielsen’s Case-in-Chief

<u>Name</u>	<u>Company & Address</u>	<u>Purpose</u>
Burbank, John	The Nielsen Company (US), LLC 770 Broadway New York, NY 10003	Fact
Goldberg, Benjamin	200 Mercer Street, #2F New York, NY 10012	Expert

<u>Name</u>	<u>Company & Address</u>	<u>Purpose</u>
Reed, Brett	Competition Economics LLC 150 South Los Robles, Suite 850 Pasadena, CA 9110	Expert
Stackhouse, Herbert	The Nielsen Company (US), LLC 770 Broadway New York, NY 10003	Fact

Nielsen reserves the right to not call any of the above-mentioned witnesses at trial in the interest of time, necessity or other factors that may arise before or during trial. The order in which the witnesses are listed is not the order in which witnesses will be called at trial. Nielsen and comScore have agreed to procedures for providing advance notice of the order of witnesses.

II. Nielsen Fact Witnesses To Be Offered By Deposition Testimony

Nielsen expects to offer the following former Nielsen employee witnesses to testify by deposition, including deposition testimony as counter- or rebuttal-designations to deposition testimony offered by comScore. A stipulation specifying the exchange of designations, counter-designations, and objections and the use of such testimony at trial has been submitted to the Court for approval.

<u>Name</u>	<u>Company & Address</u>	<u>Purpose</u>
Osborne, David	Former employee of The Nielsen Company (US), LLC 770 Broadway New York, NY 10003	Fact
Ramji, Shiven	Former employee of The Nielsen Company (US), LLC 770 Broadway New York, NY 10003	Fact

These designations are subject to comScore's identification of deposition testimony it will present at trial, as well as comScore's presentation of live witnesses at trial. To the extent comScore presents witness testimony by deposition, Nielsen reserves the right to concurrently present deposition testimony by such witness or witnesses.

III. Nielsen Fact Or Expert Witnesses That May Be Called At Trial, If The Need Arises

Nielsen reserves the right to call other witnesses, either live or by deposition or by previous trial testimony, for the purpose of impeachment, rebuttal, or any other purpose the law allows, and to call or examine witnesses identified by comScore.

Nielsen's witness list is based on evidence, including documents and testimony, that have been made available by comScore up to the date of this filing. To the extent comScore has withheld or otherwise failed to produce non-privileged, responsive documents, or deponents have refused to provide testimony regarding discoverable, non-privileged information, Nielsen reserves the right to call as witnesses individuals whose identity or relevance to the matters in dispute becomes apparent from any such late-provided information. Specifically, Nielsen reserves the right to call witnesses or play deposition testimony to rebut comScore's new position, outlined in its November 11, 2011 Motion to Modify Argument in its Motion in Limine No. 1 Regarding Marking for the '837 Patent (Dkt. 233), that it practices the '837 patent, and in connection with the Court's ruling on Nielsen's cross-motion for sanctions.

Dated: November 20, 2011

Respectfully submitted,

/s/ Walter D. Kelley, Jr.

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***Counsel for Defendants The Nielsen Company (US), LLC
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CERTIFICATE OF SERVICE

I certify that on November 20, 2011, a copy of the foregoing was filed electronically with the Clerk of Court using the ECF system which will send notification to the following ECF participants:

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Dated: November 20, 2011

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